

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Protecting Consumers from Unauthorized Carrier	)	CG Docket No.17-169
Changes and Related Unauthorized Charges	)	

**COMMENTS OF SPRINT CORPORATION**

Sprint Corporation (“Sprint”) hereby respectfully submits its comments on the Notice of Proposed Rulemaking (NPRM) released on July 14, 2017 (FCC 17-91), in the above-captioned proceeding. In this proceeding, the Commission has proposed rules and policies intended to combat slamming and cramming. While the Commission is rightly concerned about unauthorized carrier switches and unauthorized charges included on phone bills, it should not extend slamming and cramming rules where the problem does not exist, or where competition has resulted in measures that protect consumers more effectively than regulation. As discussed below, the slamming and cramming measures under consideration here are unnecessary or inapplicable to CMRS and interconnected VoIP service, and accordingly should not be extended to these services.

**I. Introduction and Summary**

In the instant NPRM, the Commission has proposed to codify new rules to (1) ban misrepresentations on sales calls and invalidate any subsequent verification of a carrier change resulting from such misrepresentations, and (2) prohibit cramming. The Commission has also asked for comment on whether to make primary interexchange carrier (PIC) freezes the default; whether to block certain third-party billing by default;

whether to require executing carriers to double-check a service provider switch with the consumer; and whether to require submitting carriers that rely on third-party verification (TPV) to record the entire sales call that precedes a switch. Although several of these proposals relate to and make sense only with regard to wireline service, the Commission has asked whether various of these proposals should be extended to CMRS, pre-paid wireless, and interconnected VoIP service providers.

Sprint shares the Commission's concerns about deceptive sales tactics, unauthorized carrier changes, and the inclusion of unauthorized charges on consumers' telephone bills. However, slamming and cramming rules, including the rules proposed in the instant NPRM, should not be extended to CMRS, prepaid wireless, or interconnected VoIP service providers.<sup>1</sup> As discussed below, slamming does not occur in the wireless or interconnected VoIP context, and existing safeguards are sufficient to protect against cramming in these market segments. Extending slamming and cramming rules are thus unnecessary in these markets. The proposals relating to PIC freezes, double-checking carrier switches, and recording sales call also are not relevant in the CMRS context; however, Sprint describes below several measures which offer significant consumer protection against unauthorized activity on their wireless service.

## **II. Slamming Rules Should Not Be Extended to Wireless or Interconnected VoIP**

Slamming, an unauthorized change in a subscriber's selection of a provider of telephone exchange service or telephone toll service,<sup>2</sup> is a wireline issue. Slamming can

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<sup>1</sup> NPRM, paras. 12-13.

<sup>2</sup> *See, e.g.*, NPRM, para. 3.

occur only when there is a choice of carriers to which a call can be routed from the originating point. For example, toll traffic originating over a wireline local exchange network can subsequently be routed to the network of numerous wireline long distance carriers, either facilities-based or resellers. If the default (presubscribed) long distance carrier is changed without proper authorization, a slam of the long distance service has occurred.

Slamming does not occur in the wireless context, either post-paid or pre-paid, because all of the calls (both “local” and “toll”) placed by a wireless service subscriber from his mobile handset are handled and billed by his wireless carrier.<sup>3</sup> The wireless carrier is the preferred service provider for all calls, and does not and cannot change the consumer’s default service provider. Moreover, a consumer must take affirmative steps to establish wireless service, including obtaining a mobile device compatible with the wireless service provider’s network. It is unlikely that a consumer would go to the expense and effort of securing a compatible mobile device unless he intended to activate service on that carrier’s network.

Nor is slamming a problem for interconnected VoIP subscribers. Interconnected VoIP service requires a broadband connection and Internet protocol-compatible customer premises equipment (CPE). All calls originated over the broadband facility will be handled by the service provider associated with that service. Having chosen the interconnected VoIP service, the subscriber cannot select a telephone exchange or toll service provider different from the one associated with the interconnected VoIP service.

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<sup>3</sup> This is not to say that a consumer cannot switch to a new wireless service provider; obviously, such switches are common in the highly competitive retail wireless market.

Given that slamming does not occur in the context of either wireless or interconnected VoIP service, and that there is no record evidence of a problem with slamming of wireless or interconnected VoIP service,<sup>4</sup> there is no basis for extending any slamming rules to wireless or interconnected VoIP service providers.

Just as there is no basis for applying existing slamming rules to wireless or interconnected VoIP services, so too is there no basis for applying the proposed rule banning misrepresentations in sales calls (which the Commission has concluded are a leading cause of slamming<sup>5</sup>) to CMRS or interconnected VoIP service providers. Vigorous competition in the retail wireless market has caused service providers to implement robust programs to help ensure customers know what they are signing up for, and to allow customers who are unhappy with their service or device to cancel the transaction without penalty. For example, at point of sale, Sprint wireless customers are given written information describing the calling plan they have selected. Sprint also has a “Satisfaction Guaranteed” offer which allows customers to try Sprint service for a full 14 days; if the customer is not completely satisfied, Sprint will:<sup>6</sup>

- Refund the device purchase price and any down payment, as well as any installment billing or lease payments made to date;
- Refund service charges assessed (including any monthly recurring charges, activation fee, and all associated taxes and fees); and

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<sup>4</sup> For example, all of the slamming cases cited in the NPRM (*see, e.g.*, paras. 5-9 and footnote 15) involve wireline telecommunications carriers.

<sup>5</sup> *See, e.g.*, NPRM, para. 5.

<sup>6</sup> Sprint’s Satisfaction Guaranteed offer is available for new lines activating on or after January 6, 2017; related offer available to existing customers who purchase or lease a new device. Device must be returned in good, working condition to original place of purchase. *See* [https://www.sprint.com/content/sprint/sprint\\_com/us/en/legal/return-and-exchange-policy.html?id16=2%20week%20guarantee%20%7CAI&question\\_box=2%20week%20guarantee%20%7](https://www.sprint.com/content/sprint/sprint_com/us/en/legal/return-and-exchange-policy.html?id16=2%20week%20guarantee%20%7CAI&question_box=2%20week%20guarantee%20%7).

- Waive any Early Termination Fees, any remaining installment billing balance, or any remaining unpaid lease payments.

Other wireless service providers also offer their own satisfaction guarantees.<sup>7</sup>

The voluntary CTIA Consumer Code for wireless service<sup>8</sup> (signed by Sprint and numerous other wireless service providers) also offers significant protections to help ensure that consumers make informed choices when selecting their wireless service.

Signatories to the CTIA Code have committed to adhere to the following measures:

- Disclose rates and terms of service to consumers;
- Make available maps showing where service is generally available;
- Provide contract terms to customers and confirm changes in service;
- Allow a trial period for new service;
- Provide specific disclosure in advertising;
- Separately identify carrier charges from taxes on billing statements;
- Provide customers the right to terminate service for changes to contract terms;
- Provide ready access to customer service;
- Promptly respond to consumer inquiries and complaints received from government agencies;
- Abide by policies for protection of customer privacy;
- Provide consumers with free notifications for voice, data and messaging usage, and international roaming; and
- Mobile wireless device unlocking.

Wireless service satisfaction guarantees and the CTIA Code are powerful protections against misrepresentations (and misunderstandings) in the sales process.

Where, as here, competitive forces are largely sufficient to prevent sales abuses, the Commission should refrain from imposing onerous and unnecessary regulations.

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<sup>7</sup> See, e.g., AT&T policy ([https://premier-ss.activationnow.com/selfservice/return\\_policy.html](https://premier-ss.activationnow.com/selfservice/return_policy.html)); T-Mobile policy ([https://www.t-mobile.com/templates/popup.aspx?passet=ftr\\_ftr\\_returnpolicy](https://www.t-mobile.com/templates/popup.aspx?passet=ftr_ftr_returnpolicy)); Verizon Wireless policy (<https://www.verizonwireless.com/dam/support/pdf/collateral/EVOBUS0510EN.pdf>).

<sup>8</sup> See <https://ctia.org/initiatives/voluntary-guidelines/consumer-code-for-wireless-service>. CTIA also has voluntary guidelines for other billing practices such as political and charitable giving via the wireless carrier's bill.

### **III. Cramming Rules Should Not Be Extended to Wireless Services**

Cramming is the practice of charging consumers for third-party products and services that the consumer did not authorize. In the instant NPRM, the Commission has proposed to codify a new rule against cramming, and has asked whether it should be extended to CMRS, pre-paid wireless and interconnected VoIP service providers.<sup>9</sup>

While Sprint shares the Commission's concerns about cramming, we do not believe that extending the proposed anti-cramming rule to wireless or interconnected VoIP service providers is warranted. Sprint and other carriers have adopted policies and implemented systems to help prevent cramming and to address complaints about unauthorized third-party charges. Where the Commission suspects that carriers' safeguards may be insufficient, it can investigate and intervene based on its authority to enforce the codified truth-in-billing rules and the statutory Section 201(b) requirement that charges and practices be just and reasonable.

Sprint has a robust, multi-tiered approach to prevent and address incidents of alleged cramming on our subscribers' wireless bills. For example, Sprint has implemented the following processes and policies to minimize the potential for cramming:

- Sprint does not charge consumers for third-party Premium Short Message Services (PSMS) or products;
- Sprint obtains consumers' express informed consent before third-party charges are placed on their Sprint bill or before funds are deducted from a prepaid Sprint account;
- Sprint blocks third-party charges for free when a subscriber requests such a block, and provides information about this blocking option to subscribers at multiple

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<sup>9</sup> NPRM, para. 13.

points, including at or near the time the consumer subscribes to Sprint service, and when a subscriber contacts Sprint with regard to a third-party charge;

- Sprint has implemented a system to provide purchase confirmations to its subscribers for third-party charges that are separate from the Sprint wireless bill or prepaid account;
- Sprint clearly describes third-party charges in a dedicated section on the customer bill;
- Sprint has designated a senior corporate manager to oversee efforts to comply with anti-cramming measures;
- Sprint has implemented a training program to ensure that customer service representatives are able to address customer complaints about unauthorized third-party charges;
- Sprint credits its subscribers for unauthorized third-party charges included on the Sprint bill;
- Sprint does not require a subscriber to pay disputed third-party charges; does not send disputed and unpaid third-party charges to collection; does not make any adverse credit report based on nonpayment of disputed third-party charges; and does not suspend or cancel Sprint service because of nonpayment of disputed third-party charges;
- Sprint constantly monitors the activities of third parties whose charges are included on Sprint bills to ensure that their practices meet required standards.

Sprint believes that its robust anti-cramming practices and systems are effective and can be considered among industry best practices. Rather than adopting onerous new anti-cramming rules, the Commission should instead encourage the voluntary adoption of and compliance with such best practices by other entities as a means of preventing the inclusion of unauthorized third-party charges on wireless bills.

#### **IV. Blocking Certain Third-Party Billing by Default Should Not Be Extended to CMRS and Interconnected VoIP Service Providers**

The Commission has asked for comment on whether it should require wireline carriers to block third-party charges for local and long distance service by default, and to

bill such charges only if a consumer opts in.<sup>10</sup> The Commission has also asked whether this proposal should be extended to CMRS and interconnected VoIP.<sup>11</sup>

The Commission should not extend the proposed rule to block by default third-party billing for local and long distance service to CMRS and interconnected VoIP. The Commission itself has noted that “the vast majority” of complaints and enforcement actions involve traditional local exchange carriers, *not* CMRS or interconnected VoIP service providers.<sup>12</sup> Thus, extending the proposed rule here would be a costly solution in search of a problem. There is simply no basis for extending the rule given the “lack of complaints and enforcement actions about CMRS and interconnected VoIP.”<sup>13</sup>

Even in the wireline context, a default ban on billing third-party long distance and local charges could be problematic. Certain long distance charges might be included on a wireline LEC bill that, even though disputed by the consumer, may be completely legitimate. For example, casual toll charges – charges assessed on calls handled by a long distance carrier other than the consumer’s preferred carrier – could be assessed for dial-around (10XXX) calls; calls routed over the network of a carrier that the caller does not know he is connected to;<sup>14</sup> or certain operator-assisted services.<sup>15</sup> If a consumer is allowed to opt out of third-party billing on his wireline LEC bill, the casual toll service

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<sup>10</sup> NPRM, para. 18.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> Some consumers may cancel their long distance service with Carrier X but not contact the LEC to request that their line be removed from Carrier X’s network. Any 1+ long distance calls made from that line would continue to be routed to Carrier X on a casual toll basis.

<sup>15</sup> For example, a caller may place a collect call using a Carrier X operator. If the called party accepts the call, he will be billed by Carrier X even if Carrier X is not the called party’s preferred service provider.



provider would be unable in most cases to obtain payment for legitimately provided services. This would not be a reasonable outcome.

**V. Double-Checking a Switch with the Consumer: Greater Rigor in the Wireless LNP Process Would Be in the Public Interest**

The Commission has asked whether it should “require the executing carrier to confirm or “double-check” whether the consumer wants to switch providers before making” a change in his service provider, and whether this proposal should be extended to CMRS and interconnected VoIP providers.<sup>16</sup> The Commission should decline to extend this proposed rule to CMRS and interconnected VoIP providers. Sprint does agree, however, that steps can be taken to ensure that wireless number port-out requests are executed only when authorized by the subscriber to help ensure that a consumer can retain his telephone number regardless of the identity of his service provider. Specifically, number port-out requests should be executed only when they include a valid account number and password.

As explained above, slamming does not occur in the wireless context because one carrier provides all services, and affirmative steps must be taken to establish wireless service with a given carrier (*e.g.*, obtaining a device compatible with the wireless carrier’s network). Slamming and service provider switches should not be confused with the number porting process – slamming involves the unauthorized change in service providers, while number porting is the process by which a consumer who has changed his service provider is able to keep his same telephone number.

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<sup>16</sup> NPRM, paras. 22 and 25.

Although the incidence of error/disputes in the number porting process is, in Sprint's experience, extremely low,<sup>17</sup> Sprint agrees that increased rigor and standardization in the number porting process would be in the public interest. Specifically, Sprint recommends that all retail wireless port-out requests include two points of validation: the account number and the account password. Because the consumer sets his own account password, and has ready access to his account number, requiring the provision of both of these pieces of information to execute a port-out request should effectively ensure that only authorized requests are executed – it is, in effect, a “double check” with the consumer that he is authorizing the release of his telephone number for use with his new wireless service. This approach does not compromise the CPNI safeguards in Section 222(b), because the executing carrier (the current service provider) does not share any account information, including the account number or password, with other parties.

## **VI. CMRS and Interconnected VoIP Providers Should Not Be Required to Record Sales Calls**

The Commission has described cases in which unscrupulous parties have manipulated telephone conversations with consumers to make it appear that the consumers were agreeing to switch carriers during the third party verification (TPV) process.<sup>18</sup> To help address these abuses, the Commission has asked whether submitting carriers that rely on TPV should be required to record the entire sales call that precedes a

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<sup>17</sup> In a recent analysis of local number porting activity, Sprint determined that only 5 of approximately 100,000 LNP transactions were disputed.

<sup>18</sup> NPRM, para. 6.

switch.<sup>19</sup> If the Commission adopts this proposal to require recordation of the entire sales call, it should not extend it to CMRS or interconnected VoIP service providers.

The Commission should decline to extend this proposal to wireless carriers not only because slamming is not a problem in the CMRS context, but also because, insofar as Sprint is aware, wireless carriers have no regulatory reason to use TPV to verify consumer requests for wireless service. Indeed, the Commission's rules specifically exclude CMRS providers from the verification requirements of Subpart K.<sup>20</sup> Thus, CMRS providers would not be subject to this sales call recordation proposal under the terms of the proposal.

## **VII. PIC Freezes by Default Are Not Relevant to CMRS or Interconnected VoIP**

The Commission has sought comment on making preferred carrier freezes by local exchange carriers the default as an additional means of protecting against slamming. Under this proposal, the consumer's choice of wireline provider for local, intraLATA and interLATA services would be automatically frozen. In contrast to wireline service, the Commission has noted that "consumers purchase CMRS and interconnected VoIP as all distance services and thus a default freeze does not make sense for these services."<sup>21</sup>

The Commission is correct that a default PIC freeze is irrelevant to CMRS and interconnected VoIP services, and Sprint accordingly agrees that this proposal should not be extended to CMRS or interconnected VoIP service providers.

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<sup>19</sup> NPRM, para. 30.

<sup>20</sup> See 47 C.F.R. § 64.1120(a)(3).

<sup>21</sup> NPRM, para. 14.

Respectfully submitted,

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*/s/ Charles W. McKee*

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September 13, 2017